

The SHOSHONE-BANNOCK TRIBES

FORT HALL INDIAN RESERVATION
PHONE (208) 478-3700
FAX # (208) 237-0797



FORT HALL BUSINESS COUNCIL
P.O. BOX 306
FORT HALL, IDAHO 83203

February 5, 2007

VIA ELECTRONIC MAIL

Office of Indian Energy and Economic Development
Attention: Section 1813 ROW Study
Room 20 – South Interior Building
1951 Constitution Avenue, NW
Washington, DC 20245

Re: Comments on Section 1813 Study of Indian Land Rights-of-Way

Dear Sir/Madam:

On December 21, 2006, the United States Departments of Interior and Energy (hereinafter “Departments”) issued a revised report entitled, “Draft Report to Congress: Energy Policy Act of 2005, Section 1813 Indian Land Rights-of-Way Study” (hereinafter “Report”). On behalf of the Shoshone-Bannock Tribes of the Fort Hall Reservation, we submit the following comments on the Report.

The Shoshone-Bannock Tribes would like to commend the Departments on the recent revised draft study. Overall, the Report more fully considers and discusses the views, evidence presented, and comments of Indian tribes regarding tribal sovereignty, historical compensation paid tribes, and tribal consent to rights-of-way crossing Indian lands. The Report with the Executive Summary at the beginning is stronger, better organized and more useful. It addresses the statutory questions posed by Congress, and states the study’s conclusions and limitations clearly at the outset.

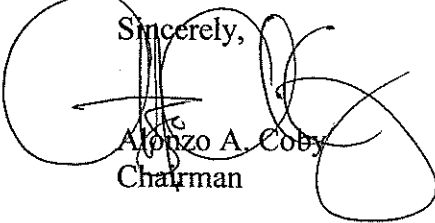
We support the Departments’ recognition of the vital importance of the exercise of tribal sovereignty and the inherent authority of tribes to consent to energy rights-of-way across their lands. As stated by the Departments, “The principle of tribal sovereignty is central to understanding the statutory and regulatory requirement of tribal consent to energy ROWs.” (p. 17). The Report more adequately describes the breadth and importance of the tribal sovereignty interests at stake.

We support the Departments' finding that most energy rights-of-way negotiations are successfully completed. This is true even if the negotiations are protracted and the method of determining the value of the energy rights-of-way result in compensation that sometimes greatly exceeds the market value of the tribal lands involved. (pp. 23, 30). As noted by the Departments, "even with these uncertainty factors, that the vast majority of energy ROW negotiations are completed to mutually agreeable terms and conditions." (p. 39).

We support the Departments' finding that "total energy transportation costs are a small component of overall consumer energy costs, that as a general matter a relatively small percentage the fraction of energy transportation infrastructure is on tribal lands, and that, as of now, no difficulties associated with ROW negotiations have led to security or reliability impacts that affect consumer cost." (p. 36). Consumer prices and a threat to energy reliability or security were the two principle concerns raised by the energy industry. In the course of the public hearings and evidence submitted and reviewed by the Departments, these concerns were refuted.

The Departments list a range of approaches that Congress could consider. (p.43). We support and believe the record supports 7.1 No Action be taken by Congress, instead rights-of-way negotiations would continue under current laws, regulations, practices and procedures. Finally, we support the Departments' recommendation that valuation of energy rights-of-way on tribal lands should continue to be based upon negotiations between the tribes and energy companies. (p. 46).

Thank you for the opportunity to comment on the revised draft Report. If you should have any questions with regard to our comments, please contact our Tribal Attorney Jeanette Wolfley at (208) 232-1922.

Sincerely,

Alonzo A. Coby
Chairman

Cc: Fort Hall Business Council
Delbert Farmer, Revenue Director
William Edmo, Policy Analyst
Bill Bacon, Attorney